UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,528	04/22/2004	Alan Thomas Schachtely	136240	7324

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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 July 2009*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-56* is/are pending in the application.

   4a) Of the above claim(s) *13-56* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.   This office action is responsive to an AMENDMENT entered July 24, 2009 for the

patent application 10/829528.

Status of Claims

2.   Claims 1-12 were rejected in the last Office Action dated April 24, 2009. As a

response to the previous office action, Applicant has Amended claims 1 and 10.

        Claims 13-56 were withdrawn from further consideration pursuant to 37 CFR

1.142(b) as being drawn to a non-elected invention.

        Claims 1-12 now remain under consideration in this Office action. Applicant is

reminded that the non-elected claims 13-56 must be canceled from this application if the

office finds that the claims 1-12 under consideration are allowable and the application in

condition for allowance.

Claim Rejections - 35 USC § 112

3.   Examiner thanks applicant for amendments made to claim 10 in response to the

USC 112 rejection presented in the previous office action. The USC 112 has been

withdrawn.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5.   Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Ozaki

(U.S. Publication Number: 2002/0032495).

As to independent claim 1, Ozaki discloses a method of managing a machinery

monitoring system (e.g., production management system) including a database of at

least one rule set (e.g., rule set for each apparatus or a group of pieces of apparatus)

(see Abstract), the rule set including at least one rule expressed as a relational

expression of a real-time data output relative to a real-time data input (e.g., dispatch

rule thus feeding back the change to control of real physical distribution) (see Abstract),

the relational expression being specific to a plant asset (e.g., rule set for each

apparatus) (see Abstract), said method comprising:

importing, by an end user (e.g., dispatch rule updated by means of setting

performed by a user) (see Paragraph [0061]), data representative of a rule set into the

machinery monitoring system (e.g., dispatch rule), the data including rule set full

operand relative path information (e.g., equipment path for each device or process) (see

Paragraph [0033] and [0124]);

applying the at least one rule set to a specific plant asset (e.g., rule set for each

apparatus or a group of pieces of apparatus) that is monitored by a plant monitoring and

control system (e.g., production management system) (see Abstract) wherein the at

least one rule set is configured to locate the data input using at least a portion of the full

operand relative path information (e.g., apparatus path defined for each device or

process) (see Paragraph [0033] and [0124]);

determining a data output of the at least one rule set using the at least one

relational expression and the data input (e.g., dispatch rule thus feeding back the

change to control of real physical distribution) (see Abstract); and

transmitting the data output to at <u>least one of</u> the machinery monitoring system

and the plant monitoring and control system (e.g., production controller dynamically

changes a dispatch rule set for each apparatus or a group of pieces of apparatus having

a same function, thus feeds back the change to control of real physical distribution) (see

Paragraph [0020]).

As to dependent claim 2, Ozaki teaches a method in accordance with claim 1

further comprising executing at <u>least one of</u> an event type (e.g., scheduling of events

according to a desired physical distribution rule) (see Paragraph [0012]) and an

actionable information text set (e.g., an example in which data pertaining to a lot are

formatted as a line of text data and the lot data are transported between containers)

(see Figure 2 and Paragraph [0045]).

As to dependent claim 3, Ozaki teaches a method in accordance with claim 1 wherein importing data representative of a rule set comprises receiving the rule set as an Extended Mark-up Language file (e.g., XML) (see prior art claim 11).

As to dependent claim 4, Ozaki teaches a method in accordance with claim 1 wherein importing data representative of a rule set comprises receiving the rule set via at <u>least one of</u> an e-mail and a CD-ROM (e.g., production controller connected online to the production line by way of the LAN) (see Paragraph [0033]).

As to dependent claim 5, Ozaki teaches a method in accordance with claim 1 wherein importing data representative of a rule set comprises importing the rule set into a rule set library (e.g., database) (see Paragraph [0150]).

As to dependent claim 6, Ozaki teaches a method in accordance with claim 1 wherein the plant monitoring and control system is one of a plurality of plant monitoring and control systems operated by a business enterprise (e.g., production management system) (see Abstract), said importing data representative of a rule set comprises (e.g., dispatch rule) (see Abstract):

creating a base rule set based on a specific plant asset type (e.g., rule set for each apparatus or a group of pieces of apparatus) (see Abstract);

editing the base rule set to create a plant asset specific rule set (e.g., production controller dynamically changes a dispatch rule set for each apparatus or a group of pieces of apparatus having a same function, thus feeds back the change to control of real physical distribution) (see Paragraph [0020]); and

transmitting the rule set to the machinery monitoring system (e.g., dispatch rule)

(see Abstract).

As to dependent claim 7, Ozaki teaches a method in accordance with claim 6

wherein importing data representative of a rule set further comprises testing the plant

asset specific rule set using at <u>least one of</u> plant asset design data, plant asset

maintenance history, plant asset off-line analysis, and empirical testing (e.g., test) (see

Paragraphs [0018] and [0149]).

As to dependent claim 8, Ozaki teaches a method in accordance with claim 6

wherein editing the base rule set to create a plant asset specific rule set comprises

(e.g., production controller dynamically changes a dispatch rule set for each apparatus

or a group of pieces of apparatus having a same function, thus feeds back the change

to control of real physical distribution) (see Paragraph [0020]):

selecting a condition to be detected, the condition being detectable using

parameters monitored by the plant monitoring and control system (e.g., boundary-value

condition for determination of a bottlenecking apparatus) (see Paragraph [0088]);

creating a relative path to the parameters (e.g., worldwide web www) (see

Paragraph [0135]);

selecting operands to process the parameters (e.g., converting the condition)

(see Paragraph [0135]); and

creating relative path to the output data (e.g., computation result into HTML and

the worldwide web www server function) (see Paragraph [0135]).

As to dependent claim 9, Ozaki teaches a method in accordance with claim 1 wherein applying the rule set to a specific plant asset comprises resolving the operands for at least one rule in the rule set (e.g., equipment path for each device or process) (see Paragraph [0033] and [0124]).

As to dependent claim 10, Ozaki teaches a method in accordance with claim 8 further comprising:

creating a conditionally executable at <u>least one of</u> an event type and an actionable information text set using the selected operands (e.g., scheduling of events) (see Paragraph [0012]); and

appending the created at <u>least one of</u> an event type and an actionable information text set to the rule set (e.g., scheduling of events according to a desired physical distribution rule) (see Paragraph [0012]).

As to dependent claim 11, Ozaki teaches a method in accordance with claim 1 wherein the plant monitoring and control system is one of a plurality of plant monitoring and control systems operated by a business enterprise (e.g., production management system) (see Abstract), said importing the rule set into the server system comprises (e.g., dispatch rule) (see Abstract):

selecting a rule set from at least one rule set applied to at least one of the plurality of plant monitoring and control systems (e.g., rule set for each apparatus or a group of pieces of apparatus) (see Abstract); and

transmitting the selected rule set from the at least one of the plurality of business enterprise plant monitoring and control systems to the plant monitoring and control system (e.g., dispatch rule) (see Abstract).

As to dependent claim 12, Ozaki teaches a method in accordance with claim 11 further comprising editing a rule set by the business enterprise user after the rule set is applied on the plant monitoring and control system (e.g., production controller dynamically changes a dispatch rule set for each apparatus or a group of pieces of apparatus having a same function, thus feeds back the change to control of real physical distribution) (see Paragraph [0020]).

Response to Arguments

6.   Applicant's amendment and arguments July 24, 2009 have been fully considered. The amendment does not overcome the original art rejection and the arguments are not persuasive. The following are the Examiner's observations in regard thereto.

Applicant Argues:

Ozaki does not describe nor suggest a machinery monitoring system wherein an end user performs the function of importing the data representative of the rule set into the machinery monitoring system.

Examiner Responds:

Examiner is not persuaded. See office action above for an example of prior art anticipation of the newly presented claim limitation. Under such considerations, the prior art anticipates the claims as written.

Conclusion

7.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejal J. Gami whose telephone number is (571) 270-1035. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert DeCady can be reached on (571) 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/TJG/